

ASSEMBLY BILL

No. 1078

Introduced by Assembly Members Keene and Liu

February 22, 2005

An act to add Chapter 6.9.1 (commencing with Section 25400.10) to Division 20 of the Health and Safety Code, relating to contaminated property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, as introduced, Keene. Contaminated property: methamphetamine.

(1) Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would enact the "Methamphetamine Contaminated Property Cleanup Act of 2005" and define terms. The bill would require the Office of Environmental Health Hazard Assessment, on or before July 1, 2006, to establish a research program regarding hazardous chemicals that are used in methamphetamine laboratory activities and would require the Department of Toxic Substances Control, on or before January 1, 2007, to adopt regulations for preliminary site assessment criteria, and cleanup and remediation. The bill would specify the human occupancy standards for property that is subject to the act, and those standards would remain in effect until the effective date of the regulations.

The bill would require a local health officer to take specified actions after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, thereby imposing a state-mandated local program by imposing new duties upon local agencies. The bill would authorize a local health officer to delegate all or part of the duties specified in the act to a designated local agency, as defined.

The bill would require a local health officer who determines, after conducting an inspection, that property is contaminated, to issue a specified order prohibiting use or occupancy and to post the order on the property, as specified.

The bill would require a property owner who receives an order that property owned by that person is contaminated by a methamphetamine laboratory activity, or a property owner who owns property that is the subject of an order, to take specified actions, including vacating occupants and retaining a methamphetamine laboratory site remediation firm that is an authorized contractor certified by the State Department of Health Services (department), pursuant to procedures specified in the act.

The bill would also require the property owner or the property owner's authorized contractor to submit a preliminary site assessment (PSA) work plan to the local health officer for review. The bill would require the local health officer to inform the property owner or contractor in writing of any deficiencies in the PSA work plan. The bill would require a property owner or authorized contractor to prepare and submit a PSA report to the local health officer after the completion of the preliminary site assessment and would require the property owner to complete remediation no later than 90 days after the date that the property owner receives the order, or no later than 95 days after the date of posting of the order on the property, whichever date is later, except as extended by the local health officer.

The bill would require a local health officer to issue a no further action determination if the local health officer determines remediation is not required at a property, based on the PSA report or, if the site has been remediated, as specified. The bill would require a property owner who has not received a "no further action determination" to notify prospective buyers and tenants, as specified.

The bill would allow a city or county to either remediate property that is not remediated in compliance with an order issued pursuant to the act, or seek a court order to require the property owner to

remediate the property. The bill would also allow a city or county to remediate property for which the local health officer is unable to locate the property owner. The bill would require a property owner to be liable for, and pay the city or county for, all costs related to the remediation, if a city or county elects to remediate the contaminated property.

The bill would require a local health officer to establish a written plan outlining the procedures to be followed for conducting remediation to property for purposes of the act, including the preparation of a PSA work plan, the conduct of a preliminary site assessment to determine the extent and level of contamination in accordance with that PSA work plan, and the preparation of a PSA report containing the results of the preliminary site assessment and recommended remedial actions.

The bill would require the department, by January 1, 2007, to adopt regulations establishing performance standards for contractors, and would prohibit a person, after July 1, 2007, from performing any remediation activities pursuant to the act, including any decontamination, demolition, or disposal, unless the person is an authorized contractor, as defined.

The bill would provide for the imposition of a civil penalty upon a property owner who does not provide a notice or disclosure required by the act, or upon a person who violates an order issued by the local health officer prohibiting the use or occupancy of a property contaminated by a methamphetamine laboratory activity.

The bill would also impose liability for specified costs regarding testing, remediation, and administrative enforcement and oversight upon a property owner who receives an order.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6.9.1 (commencing with Section 25400.10) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.9.1. METHAMPHETAMINE CONTAMINATED
PROPERTY CLEANUP ACT OF 2005

Article 1. Findings and Definitions:

25400.10. (a) The Legislature finds and declares all of the following:

(1) Methamphetamine use and production is growing throughout the state. Properties are being contaminated by hazardous chemicals used or produced in the manufacture of methamphetamine.

(2) Initial cleanup actions are limited to the removal of bulk hazardous materials and associated glassware that pose an immediate threat to public health and the environment. Where methamphetamine production has occurred, significant levels of contamination will be found throughout residential properties.

(3) Once methamphetamine laboratories have been closed, innocent members of the public may be harmed by the materials and residues that remain when these contaminated properties either lay vacant, are rented, or sold.

(4) There is no statewide standardization of standards for determining when a site of a closed methamphetamine laboratory has been successfully remediated.

(b) This chapter shall be known, and may be cited as, the “Methamphetamine Contaminated Property Cleanup Act of 2005.”

25400.11. For purposes of this chapter, the following definitions shall apply:

(a) (1) On and after July 1, 2007 “authorized contractor” means a person who is certified by the department pursuant to Section 25400.40.

(2) On and before June 30, 2007, “authorized contractor” means a person who is a professional engineer registered in this state pursuant to Chapter 7 (commencing with Section 6700) of

1 Division 3 of the Business and Professions Code or who is a
2 certified industrial hygienist pursuant to Chapter 7 (commencing
3 with Section 20700) of Division 8 of the Business and
4 Professions Code.

5 (b) "Certificate" means a written approval issued by the
6 department pursuant to this chapter.

7 (c) "Certified" means a person to whom the department issues
8 a written approval under this chapter.

9 (d) "Contaminated" or "contamination" means property
10 polluted by a hazardous chemical so that the property is unfit for
11 human habitation or use due to immediate or long-term hazards.

12 (e) "Controlled substance" has the same meaning as defined in
13 Section 11007.

14 (f) "Decontamination" means the process of reducing the level
15 of a known contaminant to a level that is deemed safe for human
16 reoccupancy, as established pursuant to Section 25400.15 or
17 25400.16, as applicable, using currently available methods and
18 processes.

19 (g) "Department" mean the State Department of Health
20 Services.

21 (h) "Designated local agency" means a county or city agency
22 designated by the local health officer to carry out all, or any
23 portion of, responsibilities assigned to the local health officer as
24 specified by this chapter. The local health officer may authorize
25 any of the following to serve as a designated local agency:

26 (1) The certified unified program agency or CUPA, for that
27 city or county, as certified pursuant to Chapter 6.11
28 (commencing with Section 25404).

29 (2) The fire department or environmental health department of
30 that city or county.

31 (3) The local agency responsible for enforcement of the State
32 Housing Law (Part 1.5 (commencing with Section 17910) of
33 Division 13).

34 (i) "Disposal of contaminated property" means the disposal of
35 property that is a hazardous waste in accordance with Chapter 6.5
36 (commencing with Section 25100).

37 (j) "Hazardous chemical" means a chemical that is believed by
38 the chief of a law enforcement agency or a local health officer, or
39 his or her designee, to be toxic, carcinogenic, explosive,
40 corrosive, or flammable, and that is believed by the chief of the

1 law enforcement agency or local health officer, or his or her
2 designee, to have been used or intended to have, been used in the
3 manufacture of methamphetamine that is prohibited by Section
4 11383.

5 (k) “Illegal methamphetamine manufacturing or storage site”
6 or “site” means property where a person manufactures
7 methamphetamine or stores methamphetamine or a hazardous
8 chemical; or property on which a law enforcement agency, a
9 local health officer, or the property owner believes that a person
10 manufactured methamphetamine or stored methamphetamine or
11 a hazardous chemical at the property; and this manufacture or
12 storage is prohibited by Section 11383.

13 (l) “Local health officer” means a county health officer, city
14 health officer, or county director of environmental health, or an
15 authorized representative of that local health officer.

16 (m) “Methamphetamine laboratory activity” means an activity
17 that is conducted at an illegal methamphetamine manufacturing
18 or storage site.

19 (n) “Office” means the Office of Environmental Health
20 Hazard Assessment.

21 (o) “Posting” means attaching a written or printed
22 announcement conspicuously on property that is suspected to be,
23 or is determined to be, contaminated by a methamphetamine
24 laboratory activity or the storage of methamphetamine or a
25 hazardous chemical.

26 (p) “Preliminary site assessment work plan” or “PSA work
27 plan” means a plan to conduct activities to determine the extent
28 and level of contamination of a suspected illegal
29 methamphetamine manufacturing or storage site and that is
30 prepared in accordance with the requirements of Section
31 25400.36.

32 (q) “Preliminary site assessment” or “PSA” mean the activities
33 taken to determine the extent and level of contamination of a
34 suspected illegal methamphetamine manufacturing or storage site
35 that is conducted in accordance with an approved PSA work
36 plan.

37 (r) “Preliminary site assessment report” or “PSA report”
38 means a determination that the levels of contamination at a
39 suspected illegal methamphetamine manufacturing or storage site
40 require remediation, including a recommendation for the

1 remedial actions required for the site to meet human occupancy
2 standards, and that is prepared in accordance with Section
3 25400.37.

4 (s) "Property" means any site, lot, parcel of land, structure, or
5 part of a structure involved in the manufacture of
6 methamphetamine or storage of methamphetamine or a
7 hazardous chemical that is prohibited by Section 11383,
8 including, but not limited to, any of the following:

9 (1) A single-family residence, a residential unit or multiplex, a
10 condominium, or an apartment building.

11 (2) A motel or hotel.

12 (3) A boat, motor vehicle, or trailer.

13 (4) Manufactured housing.

14 (5) A ship, booth, or garden.

15 (6) Any site, lot, parcel of land, structure, or part of structure
16 that may be contaminated by a previous use, including, but not
17 limited to, a mobile home or recreational space park.

18 (t) "Property owner" means a person with a lawful right of
19 possession of property by reason of obtaining it by purchase,
20 exchange, gift, lease, inheritance, or legal action.

21 (u) "Storage site" means any property used for the storage of a
22 hazardous chemical or methamphetamine that is prohibited by
23 Section 11383.

24 (v) "Warning" means a sign posted by the local health officer
25 conspicuously on the site of an illegal methamphetamine
26 manufacturing or storage site informing potential occupants that
27 hazardous chemicals may exist on, or have been removed from,
28 the premises and that entry is unsafe.

29 25400.12. Any term not defined expressly by this article shall
30 have the same meaning as defined in Chapter 6.8 (commencing
31 with Section 25300).

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33 Article 2. Establishment of Remediation and Re-occupancy
34 Standards
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36 25400.15. (a) On or before July 1, 2006, the Office of
37 Environmental Health Hazard Assessment shall establish a
38 research program to do all of the following:

1 (1) Identify hazardous chemicals that are used in
2 methamphetamine laboratory activities and that are toxic,
3 carcinogenic, explosive, corrosive, or flammable.

4 (2) Develop standards to determine when a property
5 contaminated by methamphetamine laboratory activity is safe for
6 human occupancy.

7 (b) On or before January 1, 2007, the Department of Toxic
8 Substances Control in consultation with the office, shall adopt
9 regulations establishing practical and cost-effective guidelines
10 and procedures for doing both of the following:

11 (1) Preliminary site assessment criteria for a property
12 contaminated by a methamphetamine laboratory activity,
13 including development of a sample and analysis plan.

14 (2) Cleanup and remediation.

15 25400.16. Until the effective date of the regulations required
16 to be adopted pursuant to Section 25400.15, if a suspected
17 methamphetamine laboratory activity has taken place at a
18 property, the property is safe for human occupancy for purposes
19 of this chapter only if all of the following standards are met with
20 regard to that property:

21 (a) A methamphetamine level that is less than, or equal to, 0.1
22 micro grams per 100 square centimeters.

23 (b) A total level of lead that is less than, or equal to, 20 micro
24 grams per square foot.

25 (c) A level of mercury that is less than, or equal to, 50 nano
26 grams per cubic meter in air.

27 Article 3. Local Health Officer Responsibilities

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29
30 25400.17. (a) A local health officer may delegate all or part
31 of the duties specified in this chapter to a designated local
32 agency.

33 (b) If a suspected methamphetamine laboratory activity has
34 taken place at a property, the local health officer and any
35 employee, representative, or contractor of a state or local agency
36 shall assume that the methamphetamine manufacturing process
37 has led to some degree of chemical contamination within the
38 structure, and possibly the surrounding property, and take action
39 pursuant to this chapter.

1 25400.18. Within three working days after receiving
2 notification from a law enforcement agency of potential
3 contamination of property by a methamphetamine laboratory
4 activity, the local health officer shall post a written notice in a
5 prominent location on the premises of the property. As a
6 minimum, the notice shall include all of the following
7 information:

8 (a) The word “WARNING” is large bold type at the top and
9 bottom of the notice.

10 (b) A statement that a methamphetamine laboratory was seized
11 on the property.

12 (c) The date of the seizure.

13 (d) The address or location of the property including the
14 identification of any dwelling unit, room number, apartment
15 number, or vehicle or boat identification number.

16 (e) The name and contact telephone number of the agency
17 posting the property.

18 (f) A statement specifying that hazardous substances, toxic
19 chemicals, or other hazardous waste products may be still present
20 on the property.

21 (g) A statement that it is unlawful for an unauthorized person
22 to enter the contaminated portion of the property until advised
23 that it is safe to do so by the local health officer or designated
24 local agency.

25 (h) A statement that a person disturbing or destroying the
26 posted notice is subject to a civil penalty in an amount of up to
27 five thousand dollars (\$5,000).

28 (i) A statement that a person violating the posted notice is
29 subject to a civil penalty in an amount of up to five thousand
30 dollars (\$5,000).

31 25400.19. Within 10 working days after receiving a
32 notification from a law enforcement agency of potential
33 contamination of a property by a methamphetamine laboratory
34 activity, or upon notification from the property owner, the local
35 health officer shall inspect the property pursuant to this section.

36 (a) The property inspection shall include, but not be limited to,
37 obtaining evidence of hazardous chemical use or storage and
38 documentation of evidence of any chemical stains, cooking
39 activity and release or spillage of hazardous chemicals.

(b) In conducting an inspection pursuant to this section, the local health officer may request copies of any law enforcement reports, forensic chemist reports, and any hazardous waste manifests, to evaluate all of the following:

(1) The length of time the property was used as an illegal methamphetamine manufacturing or storage site.

(2) The extent of the property actually used and contaminated in the manufacture of methamphetamine or the storage of methamphetamine or a hazardous chemical.

(3) The chemical process that was involved in the illegal methamphetamine manufacturing.

(4) The chemicals that were removed from the scene.

(5) The location of the illegal methamphetamine manufacturing or storage site in relation to the habitable areas of the property.

25400.20. (a) Upon completing an inspection pursuant to Section 25400.19, the local health officer shall determine whether the property is contaminated.

(b) If the local health officer determines the property is contaminated, the local health officer shall take the actions specified in Section 25400.21.

(c) If the local health officer determines that the property is not contaminated, within 10 working days after making that determination, the local health officer shall prepare a written documentation of this determination, which shall include all of the following:

(1) Findings and conclusions.

(2) Name of the property owner, and, if applicable, mailing and street address of the property, or vehicle identification number or license number, if applicable.

(3) Parcel identification number, if applicable.

(d) Within 10 working days after preparing a written documentation of the determination made pursuant to subdivision (c) that the property is not contaminated, the local health officer shall provide a copy of the written determination to the county recorder, who shall file that information with the property record, and send a copy of the determination to the property owner, to the local agency responsible for the State Housing Law (Part 1.5 commencing with Section 17910) of Division 13, and to the department.

1 25400.21. If a local health officer determines that property is
2 contaminated pursuant to subdivision (b) of Section 25400.20,
3 the local health officer shall notify the department in writing
4 within 10 working days after the date of that determination. This
5 notification shall include all of the following:

- 6 (a) Description of the findings and conclusions.
- 7 (b) Name of the property owner, and mailing and street
8 address, including ZIP Code and county of the property owner.
- 9 (c) Description of the property, including mailing and street
10 address of the property.
- 11 (d) Parcel identification number, if applicable.
- 12 (e) Vehicle identification number or license number, if
13 applicable.
- 14 (f) Date the property was determined to be contaminated.
- 15 (g) A determination as to whether an authorized contractor is
16 required for decontamination.

17 25400.22. No later than 10 working days after the date when
18 a local health officer determines that property is contaminated
19 pursuant to subdivision (b) of Section 25400.20, the local health
20 officer shall issue an order pursuant to this section prohibiting
21 use or occupancy.

22 (a) Except as otherwise specified in this section, an order
23 issued pursuant to this section shall be served, either personally
24 or by certified mail, return receipt requested, to all known
25 occupants of the property and to all persons who have an interest
26 in the property, as shown upon the records of the recorder's
27 office of the county in which the property is located.

28 (b) If the whereabouts of a person described in subdivision (a)
29 are unknown and cannot be ascertained by the local health
30 officer, in the exercise of reasonable diligence, and the local
31 health officer makes an affidavit to that effect, the local health
32 officer shall serve the order by personal service or by mailing a
33 copy of the order by certified mail, postage prepaid, return
34 receipt requested, as follows:

35 (1) The order shall be served to each person at the address
36 appearing on the last equalized tax assessment roll of the county
37 where the property is located.

38 (2) The order shall be served at the address known to the
39 county recorder.

1 (c) Except as provided in subdivisions (d) and (e), the local
2 health officer shall also mail a copy of the order required by this
3 section to the address of each person or party having a recorded
4 right, title, estate, lien, or interest in the property.

5 (d) If the affected property is a motor vehicle, motorhome,
6 recreational vehicle, boat, or trailer, the order issued by the local
7 health officer shall be served, either personally or by certified
8 mail, return receipt requested, to all known persons having an
9 interest in the property, including owners and holders of liens or
10 security interests against the property, as shown upon the records
11 of the Department of Motor Vehicles.

12 (e) In addition to the requirements of subdivision (d), if the
13 affected property is a mobile home or recreational vehicle in a
14 space rental park, the order issued by the local health officer shall
15 also be served, either personally or by certified mail, return
16 receipt requested, to the owner of the space rental park.

17 (f) The order issued pursuant to this section shall include all of
18 the following information:

19 (1) A description of the property;
20 (2) The parcel identification number, if applicable;
21 (3) The vehicle identification number or license number, if
22 applicable.

23 (4) A description of the local health officer's intended course
24 of action.

25 (5) A specification of the penalties for noncompliance with the
26 order.

27 (6) A prohibition on the use of all or portions of the property
28 as long as the property is contaminated.

29 (7) A description of the measures the property owner is
30 required to take to decontaminate the property.

31 (8) An indication of the potential health hazards involved.

32 (9) A statement that a property owner who fails to provide a
33 notice or disclosure that is required by this chapter is subject to a
34 civil penalty of up to five thousand dollars (\$5,000).

35 (g) The local health officer shall provide a copy of the order to
36 the local building or code enforcement agency or other
37 appropriate agency responsible for the State Housing Law (Part
38 1.5 (commencing with Section 17910) of Division 13).

1 (h) The local health officer shall post the order in a
2 conspicuous place on the property within one working day of the
3 date that the order is issued.

4
5 Article 4. Site Assessment and Remediation
6

7 25400.25. (a) A property owner who receives an order issued
8 pursuant to Section 25400.22 that property owned by that person
9 is contaminated by a methamphetamine laboratory activity, a
10 property owner who owns property that is the subject of an order
11 posted pursuant to subdivision (h) of Section 25400.22, and a
12 person occupying property that is the subject of the order, shall
13 take the following actions with regard to the property identified
14 in the order or subject to that posting:

15 (1) Upon receiving the order, or following the posting of the
16 property, the property owner shall promptly act to vacate all
17 occupants from those parts of a structure or property identified
18 by the order to be contaminated by the methamphetamine
19 laboratory activity, including, but not limited to, a dwelling,
20 building, motor vehicle, trailer, boat, appliance, or any other
21 affected area or location.

22 (2) No later than 10 days after the date of the posting, a person
23 occupying property that is the subject of an order posted pursuant
24 to subdivision (h) of Section 25400.22 shall vacate those parts of
25 the structure or property identified in the order.

26 (3) No later than 10 days after receiving the order, or
27 following the date of posting, the property owner shall notify the
28 local health officer that the affected parts of the dwelling,
29 building, or motor vehicle have been and will remain vacated and
30 secured.

31 (4) No later than 30 days after receipt of the order, or no later
32 than 35 days following the date of posting of the order on the
33 property, the property owner shall demonstrate to the local health
34 officer that the property owner has retained a methamphetamine
35 laboratory site remediation firm that is an authorized contractor
36 certified pursuant to Section 25400.40.

37 (b) If after five working days following the serving of an order
38 to a property owner pursuant to Section 25400.22, or after 10
39 working days of the date the order is posted pursuant to
40 subdivision (h) of Section 25400.22, the local health officer is

1 unable to obtain a reasonable assurance or plan from the property
2 owner or occupant that the property is being properly vacated,
3 cleaned, or remediated, the local health officer shall do all of the
4 following:

5 (1) Provide a copy of the order to the county recorder of the
6 county where the property is located and to the lien and mortgage
7 holders of the affected structure and property. The county
8 recorder may file that information with the property record.

9 (2) Provide a copy of the order to the Department of Motor
10 Vehicles and the holders of liens or security interests against the
11 vehicle, boat, or trailer when the affected property is a motor
12 vehicle, motorhome, recreational vehicle, boat, or trailer.

13 25400.26. (a) A property owner who receives an order issued
14 pursuant to Section 25400.22 that property owned by that person
15 is contaminated by a methamphetamine laboratory activity, or a
16 property owner who owns property that is the subject of an order
17 posted pursuant to subdivision (h) of Section 25400.22, shall
18 utilize the services of an authorized contractor to remediate the
19 contamination caused by the methamphetamine laboratory
20 activity, in accordance with the procedures specified in this
21 section.

22 (b) The property owner shall keep all required records
23 documenting decontamination procedures.

24 (c) The property owner or the property owner's authorized
25 contractor shall submit a preliminary site assessment work plan
26 to the local health officer for review.

27 (d) (1) No later than 10 working days after the date the PSA
28 work plan is submitted by the property owner or authorized
29 contractor, the local health officer shall review the PSA work
30 plan to determine whether the PSA work plan complies with this
31 chapter, including the procedures established pursuant to Section
32 25400.35.

33 (2) If there are any deficiencies in a submitted PSA work plan,
34 the local health officer shall inform the property owner or
35 authorized contractor, in writing, of those deficiencies no later
36 than 15 days of the date that the PSA work plan was submitted to
37 the local health officer.

38 (3) If the local health officer approves the plan, the local
39 health officer shall inform in writing, the property owner or

1 authorized contractor no later than 15 days of the date that the
2 PSA work plan was submitted to the local health officer.

3 (e) (1) After a preliminary site assessment is completed in
4 accordance with the PSA work plan, the property owner or
5 authorized contractor shall prepare a PSA report in accordance
6 with Section 25400.37 and submit the PSA report to the local
7 health officer.

8 (2) If after a preliminary site assessment is completed in
9 accordance with a PSA work plan, and the local health officer,
10 upon review of the PSA report determines there is no level of
11 contamination at a site that requires remediation, the local health
12 officer shall take the actions specified in Section 25400.27.

13 (f) The property owner shall complete remediation of all
14 applicable portions of the contaminated property in accordance
15 with this chapter no later than 90 days after the date that the
16 property owner receives the order issued pursuant to Section
17 25400.22, or no later than 95 days after the date of posting on the
18 property pursuant to subdivision (h) of Section 25400.22,
19 whichever date is later. A local health officer may extend the
20 date for completion remediation, in writing.

21 25400.27. If a local health officer determines that property
22 that has been the subject of a PSA report has been remediated in
23 accordance with this chapter, or if the local health officer makes
24 the determination specified in paragraph (2) of subdivision (e) of
25 Section 25400.26, the local health officer shall issue a no further
26 action determination and, within 10 working days of that date of
27 making the determination, do all of the following:

28 (a) Record a release for reuse document in the real property
29 records of the county recorder where the property is located, and
30 submit a notice to the lien and mortgage holders of the affected
31 structure and properties, indicating that the property was
32 remediated in accordance with this chapter.

33 (b) Send a copy of the release to the property owner, local
34 agency responsible for the enforcement of the State Housing Law
35 (Part 1.5 (commencing with Section 17910) of Division 13, and
36 the department.

37 (c) Notify the Department of Motor Vehicles and the holders
38 of liens or security interests against the property, if the affected
39 property is a motor vehicle, motor home, recreational vehicle,
40 boat, or trailer.

1 25400.28. Until a property owner subject to Section 25400.25
2 receives a notice from a local health officer pursuant to Section
3 25400.27 that the property identified in an order requires no
4 further action, all of the following shall apply to that property:

5 (a) No later than five days after a prospective buyer signs a
6 contract to purchase the property identified in the order, the
7 property owner shall notify the prospective buyer in writing of all
8 methamphetamine laboratory activities that have taken place on
9 the property, and provide the prospective buyer with a copy of
10 the order. The prospective buyer shall acknowledge receipt of the
11 notice and order and may cancel the real estate purchase contract
12 within five days after receiving the notice and order, and shall
13 not be subject to any liability or damages for cancelling the
14 purchase. If the property owner does not comply with this
15 subdivision, the buyer may void the purchase contract.

16 (b) The property owner or the property owners's agents shall
17 provide written notice to all prospective tenants for a dwelling
18 unit or other property of all methamphetamine laboratory
19 activities that have taken place in, or that have impacted the
20 dwelling unit or property, and shall provide the prospective
21 tenant buyer with a copy of the order. The prospective tenant
22 shall acknowledge receipt of the notice and order before taking
23 possession of the dwelling unit or before signing a rental
24 agreement for the dwelling unit or property. The notice shall be
25 attached to the rental agreement. If the property owner or his or
26 her agent do not comply with this subdivision, the prospective
27 tenant may void the rental agreement.

28 (c) If a motor vehicle, mobile home, recreational vehicle, boat,
29 or trailer was the subject of the order issued by the local health
30 officer pursuant to Section 25400.22 or the subject of a notice
31 posted pursuant to subdivision (h) of Section 25400.22, the motor
32 vehicle, mobile home, recreational vehicle, boat, or trailer shall
33 not be sold or rented until the owner notifies the owner's agent,
34 the prospective buyer, or tenant, in writing of all
35 methamphetamine laboratory activities that have taken place in
36 the motor vehicle, mobile home, recreational vehicle, boat, or
37 trailer and the prospective buyer or tenant is provided with a
38 copy of the order.

39 (1) If the motor vehicle, mobile home, recreational vehicle,
40 boat, or trailer is subject to a sale, the prospective buyer shall

1 acknowledge receipt of the notice and order specified in this
2 subdivision before taking possession of the motor vehicle, mobile
3 home, recreational vehicle, boat, or trailer and may cancel the
4 purchase contract within five days after receiving the notice.

5 (2) If the motor vehicle, mobile home, recreational vehicle,
6 boat, or trailer is subject to a rental, the notice and order specified
7 in this subdivision shall be attached to the rental agreement.

8 (3) If the owner does not comply with the requirements of this
9 subdivision, a prospective tenant may void the rental agreement
10 and a prospective buyer may void the purchase agreement.

11
12 Article 5. Remediation of Contaminated Property by a City or
13 County
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15 25400.30. (a) If a property owner does not initiate or
16 complete the remediation of property in compliance with an
17 order issued by a local health officer pursuant to this chapter, the
18 city or county in which the property is located may take action to
19 remediate the residually contaminated portion of the property
20 pursuant to this article or may seek a court order to require the
21 property owner to remediate the property in compliance with this
22 chapter.

23 (b) If a local health officer is unable to locate a property
24 owner, including an owner of a mobile home or recreational
25 vehicle space park, within 10 days after the date the local health
26 officer issues an order pursuant to Section 25400.22, the city or
27 county in which the property is located may remediate the
28 property in accordance with this article. The city or county or its
29 contractors may remove property as part of this remediation
30 activity.

31 (c) If a city or county elects to remediate contaminated
32 property pursuant to this article, the property owner is liable for,
33 and shall pay the city or county for, all costs related to the
34 remediation, including, but not limited to, all of the following:

35 (1) Posting and physical security of the contaminated site.

36 (2) Notification of affected people, businesses or any other
37 entity.

38 (3) All expenses related to the recovery of cost, laboratory
39 fees, cleanup services, removal costs, and administrative and
40 filing fees.

1 (d) If a property owner does not pay the city or county for the
2 costs of remediation specified in subdivision (c), the city or
3 county may file a lien against the property for the costs related to
4 the remediation or bring an action against the property owner for
5 the remediation costs.

6
7 Article 6. Requirements for Property Assessment and Cleanup

8
9 25400.35. A local health officer shall establish a written plan
10 outlining the procedures to be followed for conducting a
11 remediation to property for purposes of this chapter. The
12 procedures shall comply with this article and any regulations
13 adopted pursuant to this chapter, and shall include, but not
14 limited to, procedures for the preparation of a preliminary site
15 assessment work plan, the conduct of a preliminary site
16 assessment to determine the extent and level of contamination, in
17 accordance with that PSA work plan, and the preparation of a
18 PSA report containing the results of the preliminary site
19 assessment and recommendations for remediation to meet the
20 occupancy standards specified in Section 25400.15 or 252400.16,
21 as applicable.

22 25400.36. The PSA work plan shall include, but is not limited
23 to, all of the following:

24 (a) The physical location of the property.

25 (b) A summary of the information obtained from law
26 enforcement, the local health officer, and other involved local
27 agencies. The summary shall include a discussion of the
28 information's relevance to the contamination, including areas
29 suspected of being contaminated, and may include all of the
30 following information:

31 (1) Duration of laboratory operation and number of batches
32 cooked or processed.

33 (2) Drugs known to have been manufactured.

34 (3) Recipes and methods used.

35 (4) Chemicals and equipment found, by location.

36 (5) Location of contaminated cooking and storage areas.

37 (6) Visual assessment of the severity of contamination inside
38 and outside of the structure where the laboratory was located.

39 (7) Assessment of contamination of adjacent rooms, units,
40 apartments or structures.

(8) Disposal methods observed at or near the site, including dumping, burning, burial, venting, or drain disposal.

(9) A comparison of the chemicals on the manifest with known methods of manufacture in order to identify other potential contaminants.

(10) A determination as to whether the methamphetamine manufacturing method included the use of chemicals containing mercury or lead, including lead acetate, mercuric chloride, mercuric nitrate.

(c) A description of the areas to be sampled and the basis for the selection of the areas. This element of the PSA work plan shall also document the decision process used in determining not to sample particular areas. The PSA work plan shall consider both primary and secondary areas of concern.

(1) The primary areas of concern included in the work plan shall include all the following areas:

(A) Any area that has obvious staining.

(B) Any processing or cooking area, with contamination caused by spills, boil-overs, explosions, or by chemical fumes and gases created during cooking. The area may include floors, walls, ceilings, glassware, and containers, working surfaces, furniture, carpeting, draperies and other textile products, plumbing fixtures and drains, heating and air conditioning vents.

(C) Any disposal area, including such indoor areas as sinks, toilets, bathtubs, plumbing traps and floor drains, vents, vent fans, and chimney flues and such outdoor areas that may be contaminated by dumping or burning on or near soil, surface water, groundwater, sewer or storm systems, septic systems, and cesspools.

(D) Chemical storage areas that may be contaminated by spills, leaks or open containers.

(2) The secondary areas of concern shall include all of the following:

(A) Any location where contamination may have migrated, including hallways or other high traffic areas.

(B) Common areas in multiple dwellings, and adjacent apartments or rooms, including floors, walls, ceilings, furniture, carpeting, light fixtures, blinds, draperies and other textile products.

1 (C) Common ventilation or plumbing systems in hotels and
2 multiple dwellings.

3 (d) Sampling protocols, analytical methods and laboratories to
4 use and their relevant certifications or accreditations.

5 (e) A description of areas and items that will be remediated in
6 lieu of sampling, if any.

7 25400.37. After a preliminary site assessment is completed in
8 accordance with the PSA work plan, a PSA report shall be
9 prepared and submitted to the local health officer. The PSA
10 report shall be thorough and specific in reporting findings and
11 recommendations and shall include all of the following:

12 (a) The location of the site, including the street address and
13 mailing address of the contaminated property, the owner of
14 record and mailing address, legal description, and clear directions
15 for locating the property.

16 (b) A site map, including a diagram of the contaminated
17 property. The diagram shall include floor plans of affected
18 buildings and local drinking water wells and nearby streams or
19 other surface waters, if potentially impacted, and shall show the
20 location of damage and contamination and the location of
21 sampling points used in the preliminary site assessment. All
22 sampling point locations shall be keyed to the sampling results
23 and remediation recommendations.

24 (c) A description of the sampling methods and analytical
25 protocols used in the preliminary site assessment.

26 (d) A description of the sampling results.

27 (e) Information regarding the background samples and results
28 obtained.

29 (f) Specific recommendations, including methods, for remedial
30 actions required to meet the human occupancy standards
31 specified in Section 25400.15 or 25400.16, as applicable,
32 including, but not limited to, any required decontamination,
33 demolition, or disposal.

34 (g) A plan for post remediation site assessment, including
35 specific sampling requirements and methodologies, and locations
36 at which samples are to be obtained.

37 25400.38. The PSA report shall be signed and notarized by
38 the contractor responsible for the completion of the preliminary
39 site assessment.

Article 7. Certification of Contractors

25400.40. (a) On and after July 1, 2007, a person shall not perform remediation pursuant to this chapter, including any decontamination, demolition, or disposal, unless the person is issued a certificate as an authorized contractor by the department.

(b) On and after July 1, 2007, a person may advertise, offer to undertake, or perform remediation pursuant to this chapter, including, decontamination, demolition, or disposal work at an illegal methamphetamine manufacturing or storage site only after the person secures a certificate as an authorized contractor from the department.

(c) On or before January 1, 2007, the department shall adopt regulations establishing performance standards for authorized contractors.

(d) The department may train and test, or may approve courses to train and test, a contractor and a contractor's employees on the essential elements in assessing property used as an illegal methamphetamine manufacturing or storage site to determine hazard reduction measures needed, techniques for adequately reducing contaminants, use of personal protective equipment, methods for proper decontamination, demolition, removal, and disposal of contaminated property, and relevant federal and state regulations. Upon successful completion of the training, the department shall certify the contractor or employee of the contractor.

(e) The department may require a contractor to successfully complete annual refresher courses provided or approved by the department for the continued certification of the contractor or employee of the contractor.

(f) The department shall provide for reciprocal certification of an individual trained to engage in remediation of illegal methamphetamine manufacturing or storage sites, including decontamination, demolition, or disposal work in another state, if the prior training is shown to be substantially similar to the training required by the department. The department may require that individual to take an examination or refresher course before certification.

(g) The department may deny, suspend, or revoke a certificate for failure to comply with this chapter or a regulation adopted

pursuant to this chapter. The department may also deny, suspend, or revoke a certificate on any of the following grounds:

(1) Failure to perform remediation, including decontamination, demolition, or disposal work, under the supervision of trained personnel.

(2) Failure to perform work that meets the requirements of the department.

(3) Performing work under certification that was obtained by error, misrepresentation, or fraud.

25400.41. The department may impose a civil penalty not to exceed five hundred dollars (\$500) for each violation upon a contractor who violates this chapter. Each day the violation continues shall be considered a separate violation.

25400.42. The department shall require the payment of a fee for the issuance and renewal of certificates, the administration of examinations, and for the review of training courses in accordance with all of the following:

(a) The department shall set the fee to cover the cost of administering this article, including reproduction, necessary staff travel, and administrative and legal support costs.

(b) A fee submitted to the department pursuant to this article is nonrefundable and shall be paid in the form of a check or money order made payable to the department.

(c) The department shall require the payment of any necessary fee upon receipt of the contractor's application for an initial certification or the renewal of a certification.

25400.43. The department shall maintain a list of authorized illegal methamphetamine manufacturing or storage site decontamination contractors. The department's authorized contractor list shall be made available to local health officials and other appropriate agencies semiannually and to the public upon request.

Article 8. Enforcement and Liability

25400.45. (a) A property owner who does not provide a notice or disclosure required by this chapter is subject to a civil penalty in an amount of up to five thousand dollars (\$5,000). A property owner shall also be assessed the full cost of all harm to

1 public health or to the environment resulting from the property's
2 owner's failure to comply with this chapter.

3 (b) A person who violates an order issued by a local health
4 officer pursuant to this chapter prohibiting the use or occupancy
5 of a property contaminated by a methamphetamine laboratory
6 activity is subject to a civil penalty in an amount of up to five
7 thousand dollars (\$5,000).

8 25400.46. (a) A property owner who receives an order issued
9 by a local health officer pursuant to Section 25400.22, or a
10 property owner who owns property that is the subject of a notice
11 posted pursuant to subdivision (h) of Section 25400.22, is liable
12 for, and shall pay all of the following costs:

13 (1) The cost of any testing conducted to demonstrate the
14 presence or absence of a hazardous chemical.

15 (2) Any cost related to maintaining records with regard to the
16 property.

17 (3) The cost of remediating the property, including any
18 decontamination or disposal expenses.

19 (4) Any cost incurred by the local health officer or any other
20 local or state agency resulting from enforcing of this chapter and
21 oversight of the implementation of the PSA work plan and the
22 PSA report, with regard to that property.

23 (b) A person who conducts a methamphetamine laboratory
24 activity on or at property, and who is not the owner of that
25 property, is liable for, and shall reimburse the owner of the
26 property for, any cost the property owner may incur pursuant to
27 subdivision (a).

28 SEC. 2. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.